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November 6, 2017

Via ECF

Honorable LaShann DeArcy Hall
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Patrick Alford, Sr., et al. v. City of New York*
Docket No.: 11-cv-01583

Dear Judge DeArcy Hall:

The undersigned represents the City Defendants and this letter is submitted in response to Patrick Alford Sr.'s letter regarding the parties' pending Rule 72(b) objections (DE #210). Mr. Alford has improperly chosen to address what he categorizes as the City's impermissible sur-reply by filing another sur-reply without leave, re-arguing his original summary judgment motion for the third time. The City Defendants' reply memorandum, at DE #203, is not a sur-reply and it should not be disregarded. This memorandum was not prohibited by the Magistrate Judge's report and recommendation or by the plain text of Rule 72. Reply memoranda have been accepted by District Courts in this Circuit in the context of Rule 72 objections. *E.g.*, *Royal Park Investments SA/NV v. U.S. Bank Nat'l Ass'n*, No. 14 CIV. 2590 (VM), 2017 WL 4174926, slip op. (S.D.N.Y. Aug. 28, 2017); *U.S. Info. Sys., Inc. v. Int'l Bhd. of Elec. Workers Local Union No. 3*, No. 00 CIV. 4763, 2007 WL 2746902 (S.D.N.Y. Sept. 18, 2007), *aff'd*, 366 F. App'x 290 (2d Cir. 2010); *Baines v. City of New York*, No. 10-CV-9545 (JMF), 2016 WL 2343860 (S.D.N.Y. May 3, 2016); *Deas v. Capra*, No. 15-CV-1306 (VSB), 2016 WL 6242819, slip op. (S.D.N.Y. Oct. 24, 2016); *Tsabbar v. Eason*, No. 04 CIV. 10215(RMB)(THK), 2006 WL 3755178 (S.D.N.Y. Dec. 21, 2006), *aff'd*, 305 F. App'x 680 (2d Cir. 2008); *Raysor v. United States*, No. 03-CV-5418 (SLT) (JMA), 2014 WL 4658972 (E.D.N.Y. Sept. 17, 2014).

Furthermore, the City Defendants' reply was timely submitted. Pursuant to the Order dated August 30, 2017, all parties' objections were to be filed by September 22, 2017. Responses

were due October 6, 2017. In accordance with Local Rule 6.1(b)¹, the City Defendants filed a reply to Mr. Alford's response opposing their Rule 72(b) objections within seven days. Mr. Alford then inexplicably waited twenty-one days to challenge the City Defendants' memorandum in reply. His request that the City's memorandum be disregarded should be denied.

Should you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,

Barry McTiernan & Moore LLC

By: s/*Courtney Chadwell*
Courtney A. Chadwell

/cac

cc: (via ECF)
All Counsel of Record

¹ The rule provides that "any reply affidavits and memoranda of law shall be served within seven days after service of the answering papers" on any civil motion other than applications under Fed. R. Civ. P. 26 through 37, inclusive, and Fed. R. Civ. P. 45(d)(3). U. S. Dist. Ct. Rules S.& E.D.N.Y., Civ Rule 6.1.